

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CASE NO. 04-12730-MLW

)
LINWOOD S. HARRIS,)
Plaintiff,)
)
v.)
)
METROPOLITAN LIFE INSURANCE)
COMPANY AND SEARS, ROEBUCK)
AND CO. LONG TERM DISABILITY)
PLAN,)
Defendants.)
)

JOINT STATEMENT

Pursuant to the Court's March 16, 2006 Notice of Scheduling Conference, the parties submit the following joint statement.

I. Joint Discovery Plan

The parties agree to conform to the obligation to limit discovery pursuant to Fed. R. Civ. P. 26(b). It is the parties' position that automatic disclosures are not required in this case, because this case is in the nature of "an action for review on an administrative record," which is exempt from initial disclosure requirements. See Fed. R. Civ. P. 26(a)(1)(E)(i).

A. Amendments to Pleadings

Except for good cause shown, no motions seeking leave to add new parties or to amend the pleadings to assert new claims or defenses may be filed no later than two weeks after the parties have established an "Agreed Record for Judicial Review" or the Court establishes the administrative record for review.

B. Record for Judicial Review

Insofar as this matter solely concerns the Court's review of a claim for benefits under ERISA, which shall be limited to the Court's review of the administrative record, the parties agree that the Defendants shall provide to Plaintiff a copy of the proposed record for judicial review on or before May 19, 2006. If Plaintiff claims that the record is incomplete or inaccurate in any way, he will notify Defendants' counsel in writing of the same by June 2, 2006. If the Plaintiff does not provide such notice by June 2, 2006, then the Defendants shall file with the Court each of the documents served on Plaintiff entitled as "Agreed Record for Judicial Review." If Plaintiff does provide such notice by June 2, 2006, the parties must confer by June 30, 2006 in an attempt to ascertain an agreed record for review. If the parties come to an agreement, they are to promptly file an "Agreed Record for Judicial Review." If the parties cannot agree on the record, they shall file by July 14, 2006 a document entitled "Partial Record for Judicial Review," containing the particular record upon which the parties agree. To the extent the parties disagree concerning the proper contents of the record for judicial review, the parties shall file memoranda concerning any additional material they seek to have added to the record for judicial review by July 14, 2006. Parties opposing any such motion shall file any opposition by July 28, 2006.

II. Proposed Motion Schedule

If the parties agree upon the record for review and have filed an "Agreed Record for Judicial Review," the parties shall file cross-motions for summary judgment with accompanying memoranda by September 15, 2006. The parties shall file their respective oppositions to cross-motions for summary judgment by October 16, 2006.

If the parties do not agree upon the record for review, and only a "Partial Record for Judicial Review" is filed, the parties shall file cross-motions for summary judgment with accompanying memoranda within three (3) months after the Court determines what constitutes the record for judicial review, as supplemented. The parties shall file their respective oppositions to cross motions for summary judgment within one (1) month thereafter.

III. Certifications

The required certifications are attached hereto or will be filed under separate cover.

LINWOOD HARRIS
By his attorney,

/s/ Robert D. Canty (JLM)

Robert D. Canty, Esq.
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Dated: May 1, 2006

Certificate of Service
I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on the 1st day of May, 2006.
/s/ Johanna Matloff

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METROPOLITAN LIFE INSURANCE COMPANY, SEARS, ROEBUCK AND CO. LONG TERM DISABILITY PLAN, and SEARS ROEBUCK & COMPANY,
By their attorneys,

/s/ Johanna L. Matloff

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